

**Department of Veterans Affairs
Chiropractic Advisory Committee**

**Minutes of the Meeting
September 23-25, 2002**

The meeting was held in Room 430, Department of Veterans Affairs (VA) Central Office, 810 Vermont Avenue, Washington, DC 20420.

Present:

Reed Phillips, DC, PHD, Chair	Charles E. DuVall, Jr., DC
Leona M. Fischer, DC	Warren A. Jones, MD
Michael S. McLean, DC	Rick A. McMichael, DC
Brian P. Murphy, MPT	Michael K. Murphy, DO
Michael J. O'Rourke	Cynthia S. Vaughn, DC
Sara McVicker, RN, MN, Committee Manager and Designated Federal Official	

Not present:

Paul G. Shekelle, MD, PhD

Dr. Phillips called the meeting to order at 8:34 am, September 23, 2002. After the members of the Committee introduced themselves, Ms. McVicker informed the Committee that Dr. Shekelle was unable to attend the meeting. She then introduced the transcriptionist and Phil Riggins, Special Assistant to the Secretary.

Dr. Phillips read an opening statement (Attachment 2). The Committee discussed the need for terminology and acronyms to be defined in order to ensure clarity in the discussions. Ms. McVicker will provide a list of common VA acronyms to the members. Ms. McVicker answered questions about budget and travel for the Committee.

The Committee received an ethics briefing from Roberto DiBella, JD, Attorney In the Office of General Counsel, Department of Veterans Affairs. Mr. DiBella provided two handouts, "Concepts that Pervade Ethics Statutes and Regulations" and "Ethics Rules for Advisory Committee Members Who Are Special Government Employees." Mr. DiBella explained that three types of people serve on advisory committees: Special Government Employees, individuals that represent a particular organization, and consultants. The members of the VA Chiropractic Advisory Committee are considered Special Government Employees while serving on the Committee. Although members of the Committee may belong to organizations, all were appointed to the committee on the basis of their individual expertise and are, in essence, working for the Secretary to provide him with advice regarding the matters specified in the

Committee charter. As Special Government Employees, federal ethics rules apply, but the Office of General Counsel has determined that Committee members do not need to file annual Confidential Disclosure forms. Mr. DiBella provided examples of common situations and the pertinent ethics rules, and encouraged Committee members to call for an ethics opinion if situations arise about which members have questions or concerns.

The Committee went to the Omar Bradley Room to meet with the Honorable Anthony J. Principi, Secretary of the Department of Veterans Affairs. Mr. Principi welcomed the members of the Committee, thanked them for their willingness to serve, and briefly discussed the work of the Committee. He presented each member with a certificate of appointment. In response to a question, the Secretary briefly discussed the federal budget process.

When the Committee reconvened in Room 430, Dr. Philips reviewed the specific charges contained in the Committee charter. Mr. O'Rourke suggested that site visits to the Washington, DC VA Medical Center and one of the local Department of Defense sites providing chiropractic care might be useful to the Committee. The Committee discussed the need to provide recommendations to the Secretary as the committee completes work on each specific charge, rather than waiting until all charges have been addressed.

Ms. McVicker provided a briefing on the management of federal advisory committees and responded to questions from the Committee. The Committee was given several handouts including the *Federal Advisory Committee Management; Final Rule* (41 CFR Parts 101-6 and 102-3) and a copy of the slides used in the presentation. Topics covered in the briefing included the purpose of the Federal Advisory Committee Act (FACA), FACA requirements for balanced and diverse membership, functions of advisory committees, responsibilities of the Designate Federal Official, and requirements for open meetings and public comment.

Following the lunch recess, Ms. McVicker continued the FACA briefing, discussing requirements for maintenance of records and providing records to the public. Ms. McVicker reviewed operating procedures for the committee, including member responsibilities, meeting procedures, mechanisms for the public to submit comments, and procedures for oral statements to the Committee. Major documents such as minutes, recommendations and reports, and public comments will be posted on the internet site of the VA Office of Primary and Ambulatory Care (www.va.gov/primary/) under the heading of "Chiropractic Advisory Committee". The procedures for public input are posted on the Committee internet site.

The Committee discussed the need to engage in open dialogue, methods of presenting recommendations and other operational issues.

Dr. Mark Stanton, Chief Consultant, Primary and Ambulatory Care Strategic Healthcare Group, Veterans Health Administration (VHA), provided a briefing on the background and current status of chiropractic care within VHA and answered questions from the Committee. Chiropractic services are currently provided through the fee basis program, a program in which VA authorizes care to be provided by private clinicians when such services are not available through VA. Local facilities also have the option of contracting for chiropractic services. Dr. Stanton reported that the available data, based on the CPT codes for chiropractic manipulative treatment, indicate that in FY 2001 945 veterans had a total of 10,938 visits at a cost of \$357,473. He emphasized that the data reflect only those CPT codes. Several points were made during discussion: the data may not reflect actual demand if there are barriers to referral; the data may not reflect the demand that would exist if veterans were more widely aware that the service is available; the data do not reflect referrals that were made if the veteran did not follow through and actually go for the service. Dr. Stanton discussed issues relating to the referral process as it currently exists. The Committee requested Ms. McVicker organize the data on the chiropractic services by VISN, obtain data on manipulative therapy provided by doctors of osteopathic medicine and physical therapists, and data on the number of veterans seen by VA who are service-connected for orthopedic or neuromusculoskeletal conditions.

Mr. Roscoe Butler, Chief, Policy and Operations, Veterans Health Administration, VHA, provided a briefing on the fee basis program and answered questions from the Committee. He began by explaining the enrollment process, the term service-connected, and priority categories. When VA does not provide a service that is clinically necessary or such services can be purchased more economically outside VA, existing laws and regulation allow VA to contract with private entities for such care or services. Veterans must meet certain criteria in order to be authorized for fee basis care. Current criteria allow fee basis care for veterans who are 50% or more service-connected, when the care is related to a service-connected disability, or if the veteran is currently receiving care from VA and the VA clinical care provider determines such care is clinically necessary. Fee basis care is not authorized for an indefinite period. The fee basis provider must provide to VA a treatment plan and regular reviews are required. If VA later determines that such care can be provided by VA or can be provided more economically by VA, VA coordinates with the fee basis provider to bring the patient back into the VA system for the needed care.

Ms. McVicker provided a briefing on the Department of Veterans Affairs including agency organization and veteran population demographics; organization of VHA and its missions; health issues unique to veterans; data on the number and demographics of veterans cared for by VHA; and successes that VHA has achieved in recent years.

The meeting recessed at 5:31 pm.

The meeting reconvened Tuesday, September 24, 2002 at 8:35 am.

Mr. Brian McVeigh, Program Analyst, Administrative and Human Resources Management Team, Management Support Office, VHA, provided a briefing on human resource issues, including the three human resource systems utilized in VHA – Title 5, Title 38 and hybrid Title 38, and the steps needed to use these systems to appoint doctors of chiropractic within VHA. The federal government currently does not utilize doctors of chiropractic as employees. Consequently, there is no federal classification series for doctors of chiropractic, and qualifications standards and a compensation system have never been developed.

Title 5 is under the jurisdiction of the Office of Personnel Management. It is a rank-in-position system in which jobs are graded through a classification system, based on the duties of the job, and compensation is based on the classification. Appointments to Title 5 (General Schedule) positions require certification through the competitive civil service examination process. There are very strict rules governing this process.

Title 38 appointments (made under Chapter 74 of Title 38 of the US Code) are excepted from competitive civil service. The Title 38 system is a rank-in-person system that does not have a classification process; rather it uses qualification standards and individuals are graded, through a peer review process, based upon the qualifications they bring to the position and compensation is based on those grades. Duties of the position enter into grade determination only when the position entails managerial responsibilities. Appointment decisions are made by local officials after evaluating the relative qualifications of applicants rather than through a competitive examining process. Physicians (MD and DO), dentists, nurses, optometrists, podiatrists, and expanded function dental auxiliaries are appointed under Title 38.

Hybrid Title 38 positions are also authorized under Chapter 74, Title 38, US Code. This category was developed in order to expedite appointment to certain positions, and includes physical therapists, licensed practical nurses, pharmacists, occupational therapists, certified respiratory technicians and respiratory therapists. Title 5 procedures apply to these individuals for pay, performance management, leave, disciplinary action, grievance and reductions in force.

Mr. McVeigh answered questions regarding operational aspects of the three human resource systems utilized in VHA. The initial step in the process of establishing the administrative mechanisms necessary to appoint doctors of chiropractic within VHA is completion of a Major Occupational Study. This study includes a job analysis and cross-occupation comparison, as well as determination of basic education requirements, licensing and certification practices, and a review of industry standards. If appointments were to be made

under Title 5, the study would be used to develop the classification standard and qualification standard. The standards would then have to be approved by the Office of Personnel Management. The same process would be used for Title 38 appointments except only qualifications standards would need to be developed and VA has approval authority. Pay scales for Title 38 would be developed on the basis of the grade structure contained in the qualifications standard and the cross-occupation analysis. Mr. McVeigh estimated the time frame to conduct the study and develop qualifications standards as 6 months to a year.

Mr. McVeigh discussed the need to obtain authority in order to appoint doctors of chiropractic under Title 38. Ms. McVicker stated VA General Counsel has told the US House of Representatives Veterans Affairs Committee that VA did have authority to appoint under Title 38, and said that during the lunch recess she would look for a document to determine exactly what kind of appointment General Counsel had cited.

Mr. McVeigh discussed advantages and disadvantages of Title 5 vs. Title 38 in terms of expediting the process. Members of the Committee suggested various resources such as a job analysis done by the National Board of Chiropractic Examiners and the work done by the Department of Defense (DoD) Chiropractic Demonstration Project that might be useful in the conduct of the study. Ms. McVicker has requested the reports on the Chiropractic Demonstration Project from DoD and will send them to the Committee.

The Committee discussed the importance of being aware of the fiscal impact of establishing a new program, and various options for implementation that VA may consider.

Sharon Johnson, JD, Attorney, Office of General Counsel, and Kate Enchelmayer, Director, Credentialing and Privileging, Office of Quality and Performance, VHA answered questions from the Committee regarding licensure issues. VA requires employees who must be licensed to practice to hold a license from a state or territory. Based on the doctrine of federal supremacy, a licensed individual may provide services in any VA facility; they do not have to hold a license in the state in which the facility is located. Once the basic qualification of licensure is met, independent practitioners must be privileged by the facility. If an individual's state licensure does not allow something, the practitioner may not do it. If an individual's state licensure allows the practitioner to do something, and the facility privileges them to do it, the practitioner may do it. If an individual's state licensure allows something, but the facility chooses not to privilege the practitioner for that procedure, the practitioner may not do it. Contract providers working in a VA facility must follow VA policy in regard to privileges.

Ms. Enchelmayer then discussed VA's credentialing and privileging processes. Credentialing is defined as the systematic process of screening and evaluating

an individual's qualifications, including education, training, licensure, certification, experience and competency. Credentialing is the basis upon which privileges are granted or a scope of practice is drafted and ratified. Privileging is the process by which a practitioner is allowed by licensure and the facility to practice independently to provide patient care. While the appointment process and the credentialing process often review the same types of data, and are conducted as parallel activities, credentialing is, for the most part, a medical staff function. All VA facilities are accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO). JCAHO standards for credentialing require facility-specific appointments and require facility bylaws and policies clearly define the process.

The Committee discussed issues related to introducing a new profession to an agency and the need to have a contact point for advice and assistance for both doctors of chiropractic and for credentialing committees. Ms. McVicker explained that although individuals in Patient Care Services in VHA Central Office may carry the title of "Director", their role is only advisory and the program offices in Central Office do not have operational authority. Ms. Enchelmayer then explained the VetPro, the internet based electronic credentials data bank that VA and the Department of Health and Human Services jointly developed.

Following the lunch recess, Ms. McVicker informed the Committee that the General Services Administration (GSA), which oversees all advisory committees throughout the federal government, has awarded a contract to the Gallup organization for completion of a stakeholder engagement survey. Committee members may be contacted to complete the survey. Ms. McVicker also explained that the GSA maintains a public access database on all federal advisory committees, which includes membership, costs, and number of meetings held.

Dr. Phillips led the Committee in reviewing the language of P.L. 107-135, Section 204 and developing a list of items the Committee believes should be discussed at some point. Discussion ensued on whether the Committee needed to determine scope of practice and services to be offered in order to provide input to the occupational study.

Ms. McVicker provided feedback on the issue of authority to appoint under Title 38, citing a memorandum from General Counsel, written in response to a draft revision of the VHA policy on chiropractic care, which stated 38 USC paragraph 7405 authorizes the temporary employment of professional personnel on a full-time, part-time or fee basis appointment, while Mr. McVeigh was speaking to permanent appointments. Ms. McVicker was asked to seek further clarification on this issue and to report back to the Committee.

The Committee briefly discussed other items as they were written on flip charts.

During the afternoon break, Ms. McVicker consulted with Mr. McVeigh and reported back to the Committee that a contractor could be referred to reference documents. The Committee also could offer input but the contractor is not necessarily obliged to use it as the contractor would be considered the "expert" in this kind of evaluation. Therefore, the Committee does not need to await further discussions and decisions on scope of practice in order to recommend that the occupational study should be expedited.

The Committee then organized the items on the flip chart lists as topics to be addressed at the present meeting or the next meeting, and prioritized the other items. The prioritized list of topics is attached as Appendix 3.

The Committee established December 4-5, 2002 as the date of the next meeting. March 25-26, 2003 and September 16-17, 2003 were selected as tentative dates for the other two meetings to be held in FY 2003.

The meeting recessed at 5:08 pm.

The meeting reconvened Wednesday, September 25, 2002 at 8:37 am.

Dr. Phillips led the Committee in developing a recommendation to the Secretary, which the Committee unanimously approved:

Recommendation: Major Occupational Study

The Chiropractic Advisory Committee unanimously recommends that the Major Occupational Study be initiated as soon as feasible in order to accomplish the appointment of licensed Doctors of Chiropractic in Department of Veterans Affairs Medical Centers and Clinics.

While discussing the phrasing of the recommendation, the Committee addressed use of chiropractic assistants and whether such an assistant requires specific knowledge, skills and abilities, over and above what a nursing assistant or physical therapy assistant might have. Ms. McVicker will provide the Committee with copies of position descriptions for nursing assistant/medical assistant to review in order to determine if there will be a need to address this issue further.

The Committee then addressed points to include in a rationale statement to accompany the recommendation, including: the study is necessary for any type of appointment; it will take, at a minimum, several months to complete; the study will provide information needed to establish the qualification standard for doctors of chiropractic; it is necessary to comply with the mandate of the law; and the Committee is aware of references that may assist in the process. Ms. McVicker will wordsmith the rationale statement and send it to the Committee for review.

The Committee then reviewed the format of several qualifications standards and discussed basic qualifications for doctors of chiropractic. Committee members

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provided information on the history of accreditation of schools of chiropractic, state licensure laws for doctors of chiropractic, the national chiropractic board examinations, and the education and training of doctors of chiropractic. Ms. McVicker provided copies of pay scales, described how they relate to the grades in the qualifications standards, and discussed variations in the way different professions are paid.

The Committee discussed the role it could play in providing advice on chiropractic matters while the program is being established and the need for education of VISN Directors and other in top level management positions. Ms. McVicker described several mechanisms for providing updates to VA staff on the progress of the Committee's work.

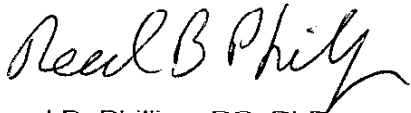
Ms. McVicker discussed cost estimates that VA had developed during the legislative process and responded to questions regarding space criteria.

The Committee discussed the agenda for the next meeting.

The meeting adjourned at 11:58 am.



Sara J. McVicker, RN, MN
Committee Manager and Designated Federal Official
Recorder



Reed B. Phillips, DC, PhD
Chair

Attachment 1: Materials provided to the Committee

Handouts provided to members in folder at beginning of meeting

- Agenda
- Federal Register notice
- PL 107-135, Sec. 204
- Charter of VA Chiropractic Advisory Committee
- Powerpoint presentation on Federal Advisory Committee (FACA)
 - Management
- FACA brochure
- FACA Final Rule
- Internet addresses for General Services Administration and VA
 - Office of Primary and Ambulatory Care
- Committee operating procedures
- Powerpoint orientation to Department of Veterans Affairs
- VA History Fact Sheet
- VA and VHA organizational charts
- VISN map
- VHA Directive 2000-14, current VHA policy on chiropractic care
- PL 106-117, Sec. 303
- Patient brochure

Handouts provided to members during meeting

- Concepts that Pervade Ethics Statutes and Regulations
- Ethics Rules for Advisory Committee Members Who Are Special Government Employees
- Powerpoint presentation on Human Resource Issues
- Credentialing and Privileging in VHA
- VHA Handbook 1100.19, Credentialing and Privileging
- Federal Register Notice, Privacy Act of 1974; System of Records, Vol. 66, No. 235, December 6, 2001
- VHA Qualifications Standards for Physician, Nurse and Physical Therapist
- 2001 GS Pay scale, Physician/dentist pay scale, and optometrist/podiatrist pay scale
- Workforce profile study for physicians

Attachment 2

**OPENING REMARKS OF DR. REED PHILLIPS, CHAIRMAN
CHIROPRACTIC OVERSIGHT COMMITTEE**

FIRST MEETING OF CHIROPRACTIC OVERSIGHT COMMITTEE

DEPARTMENT OF VETERANS AFFAIRS

SEPTEMBER 23, 2002

My name is Dr. Reed Phillips and I am both pleased and honored to have been chosen by Secretary Principi to Chair the Chiropractic Oversight Committee that was established in Section 204(g) of Public Law 107-135, The Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. As you know, I have been fortunate to also serve on the historic Oversight Advisory Committee that was created to provide input to the Secretary of Defense on the Department of Defense chiropractic health care benefit program. The lessons learned and the mandates for that Committee are in many ways similar to those outlined in Public Law 107-135 for this Oversight Advisory Committee. So hopefully I can bring a broad perspective and experience to the Department of Veterans Affairs Chiropractic Oversight Committee.

I will be brief in my opening remarks, but I did want to state very clearly the role of the Oversight Committee based on what the Congress spelled out in Section 204(g) and based on my objectives in carrying out the equally clear intent of Congress in establishing this critically important panel.

First, it may be most important to discuss what this Oversight Committee should **NOT** be discussing with its colleagues at the Department of Veterans Affairs. The statute is clear and unequivocal. A permanent chiropractic health care benefit has been established at the DVA and we should not engage in any more debates about the efficacy of chiropractic or what the research literature says or whether or not a chiropractic health care benefit is a good idea. The Congress and the President of the United States have spoken and it is time to move past the biases and precursor discussions about chiropractic care and get on with the business of developing and carrying out a robust, comprehensive chiropractic care program in accordance with the mandates of Section 204.

Second, with regard to the role of the Oversight Advisory Committee itself, Section 204(g) is equally clear that this Oversight Committee shall be playing a direct, substantive role in providing specific assistance and advice to the Secretary in both the development and implementation of the new permanent chiropractic health care benefit in the DVA. There should be no

misunderstanding from the outset that the Oversight Advisory Committee shall be directly engaged in all aspects of developing and carrying out this historic new benefit program for our Nation's veterans. We further expect that there will be regular, substantive meetings of the OAC and that in the intervals between meetings, we expect the Department to be in regular contact with us on all aspects of the development and implementation of the program. That has not always been the case in the Department of Defense benefit program, but, as Chairman, I want it clearly stated that I expect it to be the case with the Department of Veterans Affairs.

Finally, neither the Department nor this Oversight Committee should become sidetracked by differences of opinion that may arise between the various chiropractic groups and other medical groups that are represented on this panel. The statute is very clear: this chiropractic health care benefit will have a broad scope, covering 'a variety of chiropractic care and services for neuro-musculoskeletal conditions, including subluxation complex'. And the benefit shall be available to all veterans. So I would expect that disagreements and philosophies about variations within the chiropractic profession and historic biases against chiropractic care that some groups may continue to embrace, would be left at the door and not interjected as we carry out this important mission for the Secretary and the Congress.

In closing, I look forward to moving forward with all of you and the Secretary in developing a comprehensive, robust, effective and broad scope chiropractic health care benefit for our veterans. Thank you.

Attachment 3

**Chiropractic Advisory Committee
Work Plan**

- | | |
|----------------|--|
| (This meeting) | Calendar of meeting dates |
| (Next meeting) | Education of Committee on chiropractic care
status of practice, definitions, history
chiropractic training
variations in chiropractic community
hospital clinical privileges |
| | Education on osteopathic medicine |
| (1) | Occupational study
Recommendation to start asap
Input from committee for statement of work
Use DOD information, other references |
| (2) | Basic qualifications for participating DCs |
| (3) | Scope of practice/job description/privileges
Definition of services to be provided |
| (4) | Protocols for referral
Protocols for direct access |
| (5) | Develop Education Program
Develop protocol for education of other providers on
appropriate role of chiropractic – initial and ongoing for
new people; mandatory education for non-DCs

Success stories at meeting/in educational offerings

Patient education regarding chiropractic services

Education of DCs regarding VA, JCAHO requirements, etc.

Continuing education – for other VA employees
for DCs, including professional
education

Marketing/advertising (identify target audience and information to
include) |
| (6) | Scope of chiropractic program
How big, how many DCs)
Site selection/criteria
Access to chiropractic care - distance, continue fee-basis? |

Patient choice - who to go to (DC, PT, DO)

Resources

Strategies to assure resources necessary for chiropractic care are available – human resources, supplies, equipment, space

Co-location with other resources, professions

Chiropractic assistant – HR process
position description

Integrate DCs into other committees – FAC/FAG/within facilities/VISNS

Implementation issues

How to create climate/culture of inclusion/acceptance – incorporating chiropractic into VA healthcare team.
Role models for acceptance- facilities/individuals

Ideal organizational alignments- reporting lines

Quality and performance measures including patient satisfaction
include evaluation of fee basis services

Program evaluation
Evidence based practice – outcomes

Other

Academic affiliations w/DC schools

Work w/ medical schools, etc to rotate students/residents through chiropractic services

Develop chiropractic postgraduate education in VA

Research – participation in
conduct of chiropractic-specific research
translation of research findings into practice

DC role/participation in DOD discharge physicals, C&P exams

Ask Sec VA for other items he would like CAC to address

TO DO LIST
(Dr. Jones)

Dr. Jones provide family practice privileging sheet

(Dr. Phillips)

Training curriculum for chiropractic assistants

(Sara)

Get national board description -national job analysis

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- (Sara ongoing) Regular status reports / info monthly – including follow-up from meetings
- (Sara asap) Get DOD information - final reports, major and minority, and implementation guide
- (Sara) Clarify Title 38 temporary appointments-other issues with Title 38
Early placement of chiropractic providers within VA